



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/4/2004, by J. Bradley Burzynski

**SYNOPSIS AS INTRODUCED:**

765 ILCS 530/2	from Ch. 96 1/2, par. 9652
765 ILCS 530/4	from Ch. 96 1/2, par. 9654
765 ILCS 530/6	from Ch. 96 1/2, par. 9656

Amends the Drilling Operations Act. Adds the production and storage of methane gas to the definition of "drilling operations". Defines "agricultural production". Provides that the notice to the owner include a statement advising the surface owner that he or she may have a right to damages and advising the surface owner to seek legal counsel. Provides that a surface owner shall be entitled to reasonable compensation from the operator for damages to agricultural production and income caused by the drilling of a new well or by subsequent productions on the property. Provides that a surface owner shall be entitled to compensation for the diminution in value, if any, of the surface lands and other property after completion of the surface disturbance, the cost of repair of personal property, and lost use of and access to the surface owner's land. Effective immediately.

LRB093 20575 LCB 46386 b

1 AN ACT concerning drilling operations.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Drilling Operations Act is amended by  
5 changing Sections 2, 4, and 6 as follows:

6 (765 ILCS 530/2) (from Ch. 96 1/2, par. 9652)

7 Sec. 2. As used in this Act:

8 (a) "Person" means any natural person, corporation, firm,  
9 partnership, venture, receiver, trustee, executor,  
10 administrator, guardian, fiduciary or other representative of  
11 any kind and includes any government or any political  
12 subdivision or agency thereof;

13 (b) "Drilling operations" means the drilling, deepening or  
14 conversion of a well for oil or gas production, including the  
15 production and storage of methane gas, core hole or drill hole  
16 for a stratigraphic test;

17 (c) "Entry" means the moving upon the surface of land with  
18 equipment to commence drilling operations, but shall not  
19 include entry for the survey for or ascertaining or  
20 identification of a well location;

21 (d) "Operator" means the person, whether the owner or not,  
22 who applies for or holds a permit for drilling operations or  
23 who is named as the principal on a bond for a permit for a well  
24 that was issued by the Department of Natural Resources;

25 (e) "Surface owner" means the person in whose name the  
26 surface of the land on which drilling operations are  
27 contemplated, and who is assessed for purposes of taxes imposed  
28 pursuant to the Property Tax Code according to the records of  
29 the assessor of the county where the land is located as  
30 certified by said assessor;

31 (f) "Assessor" means the supervisor of assessments, board  
32 of assessors, or county assessor, as the case may be, for the

1 county in which the land is located;

2 (g) "Production operation" means the operation of a well  
3 for the production of oil or gas including all acts,  
4 structures, equipment, and roadways necessary for such  
5 operation;

6 (h) "New well" means a well that is spudded after the  
7 effective date of this Act and does not utilize any part of a  
8 well bore or drilling location that existed prior to the  
9 effective date of this Act;

10 (i) "Completion of the well" means completion of those  
11 processes necessary before production occurs, including the  
12 laying of flow lines and the construction of the tank battery.  
13 If the well is not productive, the date of completion of the  
14 well is the day it is plugged and abandoned.

15 (j) "Agricultural production" means the production of any  
16 growing grass, crops, or trees attached to the surface of the  
17 land, whether or not the grass, crops, or trees are to be sold  
18 commercially, and the production of any farm animals, whether  
19 or not the animals are to be sold commercially.

20 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)

21 (765 ILCS 530/4) (from Ch. 96 1/2, par. 9654)

22 Sec. 4. Notice.

23 (a) At least 30 days prior ~~Prior~~ to commencement of the  
24 drilling of a well, the operator shall give written notice to  
25 the surface owner of the operator's intent to commence drilling  
26 operations.

27 (b) The operator shall, for the purpose of giving notice as  
28 herein required, secure from the assessor's office within 90  
29 days prior to the giving of the notice, a certification which  
30 shall identify the person in whose name the lands on which  
31 drilling operations are to be commenced and who is assessed at  
32 the time the certification is made. The written certification  
33 made by the assessor of the surface owner shall be conclusive  
34 evidence of the surface ownership and of the operator's  
35 compliance with the provisions of this Act.

1 (c) The notice required to be given by the operator to the  
2 surface owner shall identify the following:

3 (1) The location of the proposed entry on the surface  
4 for drilling operations, and the date on or after which  
5 drilling operations shall be commenced.

6 (2) A photocopy of the drilling application to the  
7 Department of Natural Resources for the well to be drilled.

8 (3) The name, address and telephone number of the  
9 operator.

10 (3.5) A statement advising the surface owner that he or  
11 she may have a right to damages and advising the surface  
12 owner to seek legal counsel.

13 (4) An offer to discuss with the surface owner those  
14 matters set forth in Section 5 hereof prior to commencement  
15 of drilling operations.

16 (5) If the surface owner elects to meet the operator,  
17 the surface owner shall request the operator to schedule a  
18 meeting at a mutually agreed time and place within the  
19 limitations set forth herein. Failure of the surface owner  
20 to contact the operator at least 5 days prior to the  
21 proposed commencement of drilling operations shall be  
22 conclusively deemed a waiver of the right to meet by the  
23 surface owner.

24 (6) The meeting shall be scheduled between the hours of  
25 9:00 in the morning and the setting of the sun of the same  
26 day and shall be at least 3 days prior to commencement of  
27 drilling operations. Unless agreed to otherwise, the place  
28 shall be located within the county in which drilling  
29 operations are to be commenced where the operator or his  
30 agent shall be available to discuss with the surface owner  
31 or his agent those matters set forth in Section 5 hereof.

32 (7) The notice herein required shall be given to the  
33 surface owner by either:

34 (A) certified mail addressed to the surface owner  
35 at the address shown in the certification obtained from  
36 the assessor, which shall be postmarked at least 10

1 days prior to the commencement of drilling operations;  
2 or

3 (B) personal delivery to the surface owner at least  
4 8 days prior to the commencement of drilling  
5 operations.

6 (C) Notice to the surface owner as defined in this  
7 Act shall be deemed conclusive notice to the record  
8 owners of all interest in the surface.

9 (Source: P.A. 89-445, eff. 2-7-96.)

10 (765 ILCS 530/6) (from Ch. 96 1/2, par. 9656)

11 Sec. 6. Compensation of surface owners for drilling and  
12 producing operations and duties after cessation of production.

13 (A) The surface owner shall be entitled to reasonable  
14 compensation from the operator for damages to agricultural  
15 production and income, growing crops, trees, shrubs, fences,  
16 roads, structures, improvements and livestock thereon caused  
17 by the drilling of a new well, including compensation for the  
18 diminution in value, if any, of the surface lands and other  
19 property after completion of the surface disturbance,  
20 determined according to the actual use made thereof by the  
21 surface owner immediately prior to the commencement of the  
22 drilling operations, the cost of repair of personal property up  
23 to the value of replacement by personal property of like age,  
24 wear, and quality, and lost use of and access to the surface  
25 owner's land. The surface owner shall also be entitled to  
26 reasonable compensation from the operator for subsequent  
27 damages to agricultural production and income, growing crops,  
28 trees, shrubs, fences, roads, structures, improvements and  
29 livestock thereon caused by subsequent production operations  
30 of the operator thereon, including compensation for the  
31 diminution in value, if any, of the surface lands and other  
32 property after completion of the surface disturbance,  
33 determined according to the actual use made thereof by the  
34 surface owner immediately prior to the commencement of the  
35 drilling operations, the cost of repair of personal property up

1 to the value of replacement by personal property of like age,  
2 wear, and quality, and lost use of and access to the surface  
3 owner's land. The surface owner shall also be entitled to  
4 reasonable compensation for all negligent acts of operator that  
5 cause measurable damage to the productive capacity of the soil.  
6 In addition, the operator shall not utilize any more of the  
7 surface estate than is reasonably necessary for the  
8 exploration, production and development of the mineral estate.

9 (B) The compensation required pursuant to paragraph (A)  
10 above shall be paid in any manner mutually agreed upon by the  
11 operator and the surface owner, but the failure to agree upon,  
12 or make the compensation required, shall not prevent the  
13 operator from commencement of drilling operations; provided,  
14 however, that operator shall tender to the surface owner  
15 payment by check or draft in accordance with the provisions  
16 herein no later than 90 days after completion of the well. The  
17 surface owner's remedy shall be an action for compensation in  
18 the circuit court in which the lands or the greater part  
19 thereof are located on which drilling operations were  
20 conducted; provided, however, that if operator fails to tender  
21 payment within the 90-day period or if the tender is not  
22 reasonable, surface owner shall be entitled to reasonable  
23 compensation as provided herein as well as attorney's fees.

24 If operator relies on a third party appraiser or fair  
25 market value, such amount shall be conclusively deemed to be  
26 reasonable, and there shall be no award of attorney's fees.

27 (C) In conjunction with the plugging and abandonment of any  
28 well, the operator shall restore the surface to a condition as  
29 near as practicable to the condition of the surface prior to  
30 commencement of drilling operations; provided, however, that  
31 the surface owner and operator may waive this requirement in  
32 writing, subject to the approval of the Department of Natural  
33 Resources that the waiver is in accordance with its rules.

34 (D) Where practicable and absent a written agreement to the  
35 contrary with the surface owner, all flow lines and other  
36 underground structures must be buried to a depth not less than

- 1 36 inches from the surface.
- 2 (Source: P.A. 89-445, eff. 2-7-96.)